

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.5238/2021 & WMP.No.5799/2021

D.Santhakumar

.. Petitioner

Versus

1.The Principal Secretary to Government
Housing & Urban Development Department
Secretariat, Chennai-9.

2.The Greater Chennai Corporation,
rep.by its Commissioner
Rippon Building, Chennai-3.

3.The Assistant Engineer,
The Greater Chennai Corporation,
AE/DN-95, 2nd Cross Street [East]
Pulla Avenue, Shenoy Nagar,
Chennai 600 030.

4.The Assistant Executive Engineer,
The Greater Chennai Corporation
Unit 21, 2nd Cross Street [East]
Pulla Avenue, Shenoy Nagar,
Chennai 600 030.

5.The Executive Engineer,
The Greater Chennai Corporation
Zone-08, 2nd Cross Street [East]
Pulla Avenue, Shenoy Nagar,
Chennai 600 030.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent to dispose of the appeal dated 15.02.2021 preferred by the petitioner under section 80 [A] of the Tamil Nadu Town and Country Planning Act, 1971 within the stipulated period.

For Petitioner : Mr.M.Venkatesh

For R1 : Mr.R.Vijayakumar
Additional Government Pleader

For RR2 to 5 : Mr.K.Raja Shrinivas
Standing counsel

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) Mr. R. Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr. K. Raja Srinivas, learned Standing counsel accepts notice on behalf of respondents 2 to 5.
- (3) The petitioner claims to be the owner of the superstructure bearing Door No. 01A 27, Kumaraswamy Nagar, Main Road, Villivakkam, Chennai 600 049 and the said superstructure came into being in the year 2003 and according to the petitioner, the entire family is residing there.
- (4) The learned counsel for the petitioner would submit that respondents 3 to 5, without following due process of law and in a hasty manner, issued the Locking and Sealing and Demolition Notice dated 29.11.2019 and it is followed by De-Occupation Notice dated 08.01.2020 and challenging the De-Occupation Notice dated 08.01.2020, the petitioner preferred a special revision/appeal u/s. 80A of the Town and Country Planning Act, 1971. He would further submit that despite the entertainment of the statutory revision/appeal, attempts are being made to dispossess the petitioner by proceeding further with the impugned De-Occupation Notice and therefore, the petitioner is constrained to approach this Court by filing this writ petition.
- (5) Per contra, Mr. K. Raja Srinivas, learned Standing counsel appearing for respondents 2 to 5 would submit that the petitioner had unauthorisedly converted the residential premises into a commercial one and let out the deviated portions to various tenants and at least two of them have approached this Court and sought time to vacate the premises and he would further add that since special revision/appeal is of very recent origin, priority may not be accorded.
- (6) Mr. R. Vijayakumar, learned Additional Government Pleader appearing for the 1st respondent would submit that he needs time to get instructions as to whether the special revision/appeal had been entertained or not?
- (7) It is relevant to extract the details of the deviations pointed out in the De-Occupation dated 08.01.2020 issued by respondents 3 to 5:-

S.N o	Details	As per approved plan	As per site	Differenc e	Unauthori sed / deviation
I	Set Back				

S.No	Details	As per approved plan	As per site	Difference	Unauthorised / deviation
1	Front	1.52m	Nil	1.52m	Deviation
2	Rear	1.52m	Nil	1.52m	Deviation
3	Side 1 [left]	0.61m	Nil	0.61m	Deviation
4	Side 2 [Right]	2.64m	Nil	2.64m	Deviation
II	Floor Area				
1	Ground Floor	65.89 sqm	128.38 sqm	62.49 sqm	Deviation
2	First Floor	60.57 sqm	141.94 sqm	81.37 sqm	Deviation
3	Second Floor	Nil	141.94 sqm	141.94 sqm	Deviation
III	Usage of the Building-Floor Wise				
1	Ground Floor	Residential	Residential / Commercial	-	-
2	First Floor	Residential	Residential / Commercial	-	-
3	Second Floor	Nil	Residential	-	Unauthorised

(8) Though the relief sought for by the petitioner is very limited in this writ petition, as he prays for early disposal of the special revision/appeal, this Court is of the considered view that a positive order cannot be passed for the reason that the special revision itself came to be filed only on 15.02.2021 and there are very many earlier revisions/appeals which are pending and as such, this Court is not inclined to issue any positive order for early disposal of the same. However, if the petitioner is so advised, he is at liberty to invoke the provisions of the Right to Information Act, to know about the fate/stage of the special revision/appeal preferred against the Impugned

(9)The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Principal Secretary to Government
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+1cc to Mr.M.Venkatesh, Advocate, S.R.No. 14157
+1cc to the Government Pleader, S.R.No. 14878

WP.No.5238/2021

PMK (CO)
GN (26/03/2021)